101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-108

APPOINTMENT OF ADMIRAL JAMES B. BUSEY AS ADMINISTRATOR OF FAA

JUNE 23, 1989.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

---

Mr. ANDERSON, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 2444]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 2444) to provide for the appointment of Admiral James B. Busey as Administrator of the Federal Aviation Administration, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The reported bill allows Admiral James B. Busey to serve as Administrator of the Federal Aviation Administration while remaining as an officer on the retired list of the United States Navy.

This legislation is required because the law establishing the Department of Transportation requires that the Administrator of the Federal Aviation Administration must be "a civilian" (this requirements is now found in 49 U.S.C Section 106). When this legislative provision was first passed in 1958, the conference report stated that "the requirement that the Administrator be a civilian at the time of his nomination means that he shall be a civilian in the strictest sense of the word. Thus, at the time he is nominated he may not be on the active or retired list of any regular component of the Armed Services or be on extended active duty in or with the Armed Services".

This provision was added to the law when the Federal Aviation Administration was first established in 1958. At that time there were concerns about establishing the supremacy of civilian control

H643-5

of airspace. Before the establishment of FAA, civil and military authorities shared responsibility for controlling airspace. The FAA was established to provide a single system of civilian control.

To ensure civilian control, a number of other provisions were included in the 1958 Act, beyond the requirement that the FAA Administrator must be a civilian. One such provision provided that when military personnel are assigned to FAA, they shall not be subject to direction or control by the military department in which they served. The law also provided that if the FAA Administrator is a former regular officer of the armed forces, the Deputy Administrator may not be an officer on active duty, a retired regular officer, or a former regular officer.

In the Committee's judgment the legislation passed in 1958 has been successful in attaining its objective of establishing civilian control of the FAA. In recent years there have not been major concerns about military influence over FAA decisions. As a result, Congress has acted on several occasions to make exceptions to the requirement that the FAA Administrator may not be on the military retired list.

General Elwood Quesada was appointed FAA Administrator on December 1, 1958. He resigned from the military retired list before his appointment. On September 16, 1959, legislation was enacted to permit the President to reappoint Mr. Quesada to the retired list when he ceased to hold office as FAA Administrator.

In 1965, legislation was enacted authorizing the President to appoint General William F. McKee as FAA Administrator while General McKee remained on the retired list of the Air Force.

In 1984, Congress passed legislation authorizing the appointment of Donald D. Engen as FAA Administrator while continuing to hold his rank as an officer on the retired list of the United States Navy.

The Committee has concluded that it would be appropriate to pass similar legislation for Admiral Busey. The Admiral has a long and distinguished career of service to his Country, first as a naval aviator, and then in a series of high commands of increasing responsibility, including, most recently service as Vice Chief of Naval Operations and Commander in Chief of Allied Forces in Southern Europe.

Admiral Busey appeared before the Aviation Subcommittee in a hearing on June 15, 1989. His testimony and his answers to questions furnished satisfactory assurances that in his service as FAA Administrator he will be acting as a civilian and will not be subject to any influence or control by the military. In these circumstances, the Committee has concluded that it would be reasonable and equitable to enact H.R. 2444 and allow Admiral Busey to retain the benefits he has earned for himself and his family during his long career of military service.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill authorizes the President to appoint Admiral Busey to the post of FAA Administrator without regard to his position as officer on the retired list of the United States Navy, except to the extent that there are limits under the Dual Compensation

Act on the amount of retirement pay he can receive. The bill provides that as FAA Administrator, Admiral Busey shall receive compensation for that office at the rate which would be applicable if he was not on the retired list.

Section 2 of the bill provides that in the performance of his duties as Administrator of the FAA, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition which would not be operative with respect to him if he was not an officer on the retired list of the United States Navy.

Section 3 of the bill expresses the intent of Congress that passage of this legislation should not be construed as approval by Congress of the continuing appointment of military personnel to the Office of FAA Administrator in the future.

COMMITTEE ACTION AND VOTE

With respect to clause 2(l)(2) (A) and (B) of the Rules of the House of Representatives the Committee, with a majority present, favorably reported H.R. 2444 on June 22, 1989.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of the Congressional Budget Act of 1974, the Committee reports that H.R. 2444 does not provide any new budget authority or new or increased tax expenditures.

CONGRESSIONAL BUDGET ACT REQUIREMENT

With respect to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received the following report from the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 1989.

Hon. GLENN M. ANDERSON,
Chairman, Committe on Public Works and Transportation,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2444, a bill to provide for the appointment of Admiral James B. Busey as Administrator of the Federal Aviation Administration, and for other purposes, as ordered reported by the House Committee on Public Works and Transportation on June 22, 1989.

CBO estimates that no cost to the federal government or to state or local governments would result from enactment of this bill. H.R. 2444 would waive the requirement that the Administrator of the Federal Aviation Administration be a civilian and allow the President to appoint as Administrator, Admiral James B. Busey, a retired officer of the United States Navy.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER.

INFLATIONARY IMPACT ANALYSIS

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that it agrees with the estimate of the Congressional Budget Office of the costs incurred by enactment of the bill.

COST ESTIMATE OF THE LEGISLATION

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that it agrees with the estimate of the Congressional Budget Office of the costs incurred by enactment of the bill.

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that no cost estimate of H.R. 2444 was submitted to the Committee by a government agency.

○